

Diana Toebbe – Guideline Range Options

BOL 37 – Other than Top Secret (includes Restricted Data; Confidential classification)

BOL 42 – Top Secret

Guidelines as calculated in PSR (BOL 37) (With -3 levels for Acceptance)	Accept Binding Plea (BOL 37) (With -3 levels for Acceptance)	If Top Secret (BOL 42) (With -3 levels for Acceptance)	If went to trial (Based on BOL 37) (No Acceptance)	If went to trial (Based on BOL 42) (No Acceptance)
Imprisonment: 151 to 188 months Fine: \$35,000 to \$100,000	Imprisonment: NMT 36 months Fine: \$35,000 to \$100,000	Imprisonment: 262 to 327 months Fine: \$50,000 to \$100,000	Imprisonment: 210 to 262 months Fine: \$40,000 to \$100,000	Imprisonment: 360 months to Life Fine: \$50,000 to \$100,000

USSG § 2M3.1 Application Notes:

1. “Top secret information” is information that, if disclosed, “reasonably could be expected to cause exceptionally grave damage to the national security.” Executive Order 13526 (50 U.S.C. § 3161 note).
2. The Commission has set the base offense level in this subpart on the assumption that the information at issue bears a significant relation to the nation’s security, and that the revelation will significantly and adversely affect security interests. When revelation is likely to cause little or no harm, a downward departure may be warranted. See Chapter Five, Part K (Departures).
3. The court may depart from the guidelines upon representation by the President or his duly authorized designee that the imposition of a sanction other than authorized by the guideline is necessary to protect national security or further the objectives of the nation’s foreign policy.

Background: Offense level distinctions in this subpart are generally based on the classification of the information gathered or transmitted. This classification, in turn, reflects the importance of the information to the national security.